

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES McCONNELL,
SUZANNE TATTAN

Plaintiffs,

v.

CV 09-522 MCA/WPL

BOARD OF COUNTY COMMISSIONERS
FOR THE COUNTY OF RIO ARRIBA,
RIO ARRIBA COUNTY HOUSING
AUTHORITY, RIO ARRIBA COUNTY
SHERIFF'S DEPARTMENT, RHOADES
ENVIRONMENTAL and RONALD K.
RHOADES, ELIAS CORIZ, ANGIE PATCHECO,
LORI LEYBA, JOHN/JANE DOE 1-5 in their
individual capacities,

Defendants.

**ORDER DENYING REQUEST FOR
DISCIPLINARY ACTION AGAINST DEFENSE COUNSEL**

I filed an Initial Scheduling Order that directed the parties to meet and confer to prepare a Joint Status Report and Provisional Discovery Plan in advance of the scheduling conference. (Doc. 59.) Plaintiffs suggested that the parties meet on October 26, 2009. (Doc. 76 at 1.) One of the defense counsel, R. Galen Reimer, sent an email to Plaintiffs informing them that he was not available on that date. (Doc. 76 Ex. A.) Mr. Reimer has admitted that, by mistake, he used the wrong email address for Plaintiffs. (Doc. 83 at 2.) Other defense counsel received copies of Mr. Reimer's email, advised Plaintiffs about the mistake, and the conference was rescheduled for a later date. (*Id.*)

Plaintiffs have filed a Notice to Court and Request for Disciplinary Action Against Defense Counsel, arguing that defense counsel have conspired together to attempt to disrupt the meeting and that they have perpetrated a fraud on Plaintiffs and on the Court. (Doc. 76 at 2-4.) They claim that

Mr. Reimer never sent the email, that the email attached as Exhibit A to their Notice is a “fake forwarded email . . . that . . . was a copy paste, not a forward of a real email,” and that Plaintiff McConnell, “an internet/computer specialist,” can verify these claims. (*Id.* at 2.) Plaintiffs request that I order Google/Gmail to provide them information about the email address incorrectly used by Mr. Reimer and that I fine defense counsel for their actions. (*Id.* at 4.)

I decline to do so. I accept Mr. Reimer’s explanation that he used an incorrect email address for Plaintiffs, and that he did not do so intentionally. Further, I find no credible evidence that other defense counsel conspired with Mr. Reimer to defraud Plaintiffs or the Court. Therefore, I deny Plaintiffs’ request for sanctions.

IT IS SO ORDERED.


WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE

A true copy of this order was served
on the date of entry--via mail or electronic
means--to counsel of record and any *pro se*
party as they are shown on the Court’s docket.